

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE:

B-213927; B-213927.2

DATE: August 13, 1984

MATTER OF:

Potomac Scheduling Company; Axxa
Corporation

DIGEST:

1. In reviewing an agency's technical evaluation, GAO will not evaluate the proposals de novo, but instead will only examine whether the evaluation had a reasonable basis.
2. Agency's determination that proposal should be excluded from the competitive range as technically unacceptable and not susceptible of being made acceptable without major revisions is reasonable where the proposal (1) fails to offer or takes exception to mandatory requirements of the solicitation; (2) fails to provide either the required detailed technical description as to how requirements will be met or the required references to substantiating technical documentation; and (3) contains other informational deficiencies and ambiguities rendering adequate evaluation difficult or impossible.
3. No matter how capable an offeror may be, it will not be considered in the competitive range if it fails to submit an adequate written proposal, since a technical evaluation must be based upon the information submitted with the proposal.
4. GAO will not consider protester's contention that specification requiring automatic data processing equipment to be capable of supporting a specific vendor's software is unduly restrictive when the protest was not filed until after closing date for receipt of proposals. Protests based upon alleged improprieties apparent before the

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closing date must be filed by that date in order to be considered timely under GAO Bid Protest Procedures.

This decision responds to two protests concerning request for proposals (RFP) No. DAHC26-83-R-0009, issued by the United States Army Computer Systems Selection and Acquisition Agency. The solicitation covers automatic data processing equipment for the Military Personnel Center (MILPERCEN) in Alexandria, Virginia and the Army Recruiting Command (USAREC) at Fort Sheridan, Illinois.

Potomac Scheduling Company alleges that the Army improperly found its proposal to be technically unacceptable and not susceptible of being made acceptable without extensive revisions. Axxa Corporation alleges that the solicitation is unduly restrictive and protests any award to Sperry Univac, which it alleges submitted a proposal that failed to meet a mandatory requirement of the RFP. We deny the protests in part and dismiss them in part.

The Army sought proposals for two Univac 1100/84 systems and compatible peripherals for MILPERCEN and, for USAREC, peripheral devices that would be compatible with an existing Univac 1100/62 system. It also sought ancillary services such as installation, training, and maintenance. These requirements were broken out into 10 separate award groups, each of which was in turn divided into a number of line items. Although an offeror was not required to submit a proposal for all award groups, the RFP did require offers for all quantities within each group for which a proposal was submitted.

Potomac's Protest

Under award group No. 4, offerors were required to offer hardware--two general purpose communications processors (also called front-end processors). One was for MILPERCEN and the other for USAREC; each was to allow for expansion in the number of communications ports. In addition, this award group called for software and support services such as installation, training, and maintenance.

For all award groups, the RFP required technical proposals to be keyed to and address each specific specification, stating:

" . . . Each response shall provide a detailed technical description as to how the requirement will be satisfied.

Each response must include references to appropriate technical literature/documentation which substantiates the offeror's reply. All references must be in sufficient detail (e.g., by document number, page and paragraph number) to permit thorough and timely evaluation by the government's Source Selection Evaluation Board. . . "

In addition, for hardware, offerors were to submit configuration diagrams identifying the names, model numbers, interconnections, channels, and configurations for all devices, and for each configuration for which a diagram was required, a system configuration table.

After technical evaluation of the proposals submitted for award group No. 4, the Army found Potomac's proposal to be technically unacceptable without extensive revisions. In a November 30, 1983 letter notifying Potomac of its exclusion from further consideration, the contracting officer identified 16 deficiencies, some affecting more than one requirement. The Army subsequently categorized deficiencies in Potomac's proposal as (1) failure to offer required items; (2) failure to provide sufficient or detailed information on how certain requirements would be met; and (3) ambiguous or vague statements that would have permitted Potomac, during negotiations, to decide what to offer.

In response to the rejection of its proposal, Potomac filed this protest with our Office. Potomac denies that its proposal is technically unacceptable and not susceptible of being made acceptable. Potomac alleges that since it designed and supplied the communications processor now used at USAREC, which it claims meets or exceeds the applicable requirements set forth in the RFP, it has the expert knowledge to provide expanded capability for USAREC and to design a system for MILPERCEN. Potomac further argues that its rejection was based "largely on the form," rather than the content, of the proposal. Potomac contends that such a determination in an area where technical judgment is required is irrational and requires our Office to conduct a de novo review. In support of this argument, Potomac cites Essex Electro Engineers, Inc. v. United States, 3 Cl. Ct. 277 (1983).

The evaluation of technical proposals and the resulting determination as to whether an offeror is in the competitive range is a matter within the discretion of the contracting activity, since it is responsible for defining its needs and the best method of accommodating them. Generally, offers that are technically unacceptable as submitted and would require major revisions to become acceptable are not for inclusion in the competitive range. See Essex Electro Engineers, Inc.; ACL-Filco Corporation, B-211053.2; B-211053.3, Jan. 17, 1984, 84-1 CPD ¶ 74; Syscon Corporation, B-208882, March 31, 1983, 83-1 CPD ¶ 335.

Further, we have repeatedly held that in reviewing an agency's technical evaluation, we will not evaluate the proposal de novo, but instead will only examine the agency's evaluation to ensure that it had a reasonable basis. Essex Electro Engineers; ACL-Filco Corporation, B-211053.2, B-211053.3, supra, 84-1 CPD ¶ 74 at 4; Syscon Corporation, B-208882, supra, 83-1 CPD ¶ 335 at 2; Decilog, B-198614, Sept. 3, 1980, 80-2 CPD ¶ 169. In addition, the protester bears the burden of showing that the agency's evaluation was unreasonable. Essex Electro Engineers; ACL-Filco Corporation, B-211053.2, B-211053.3, supra, 84-1 CPD ¶ 74 at 4.

We do not believe that the Claims Court's decision in Essex Electro Engineers, Inc. requires us to conduct a de novo review of Potomac's proposal. The case is clearly distinguishable, since in it the court reviewed an agency's determination as to the responsiveness of a bid under a formally advertised solicitation, rather than the technical evaluation of a proposal in a negotiated procurement such as we must review here. In any case, the court did not adopt a de novo standard of review, but instead held that the rejection of the bid should not be overturned unless no rational basis existed for the agency's determination. Essex Electro Engineers, Inc., 3 Cl. Ct. at 280.

Based upon our review of the evaluation of Potomac's proposal, we conclude that the Army acted reasonably in excluding it from the competitive range. While we have examined all of the deficiencies in Potomac's proposal cited by the Army in reaching this result, we will discuss only a few examples.

With regard to Potomac's failure to offer required items, we note that in the section concerning USAREC hardware, award group No. 4 calls for a new communications processor that is initially configured to support

55 communications ports and, among other things, provides a minimum of 5 million bytes of removable disk storage. However, Potomac states in its proposal that it had previously installed a communications processor at USAREC and indicates that it is now offering an "additional 55 ports . . . as an add-on to presently-installed equipment." The Army finds this unacceptable and cites it as evidence that Potomac did not understand its requirements, as set out in the RFP.

Not only does Potomac not offer the new communications processor for USAREC, but also the one now at USAREC that Potomac seeks to utilize will not meet specifications without modification, which is prohibited by the RFP. The proposed communications processor must support the "MAP" and "MAPPER GRAPHICS" software programs. The RFP specifically provides that equipment for USAREC shall operate in the required configuration "without requiring modification to configuration hardware or software." However, Army technical personnel report that existing software at USAREC does not support the full-screen capability required for these graphics programs. Thus, Potomac's proposed expansion of currently-installed equipment would not meet the Army's needs.

In addition, we note that Potomac explicitly takes exception to the requirement for 5 million bytes of removable disk storage, contending that removable disk storage is too unreliable for use in a communications environment, and instead offers fixed disk storage.

According to the Army, Potomac's proposal also suffers from "massive" informational deficiencies. In this regard, we note that, as a general matter, we have found that such deficiencies, if material or sufficient in number, may justify exclusion of a proposal from the competitive range. See Federal Home Maintenance, B-214609, March 27, 1984, 84-1 CPD ¶ 363; Syscon Corporation, B-208882, supra, 83-1 CPD ¶ 335 at 6.

Here, the RFP requires that each communications processor have the facilities to communicate externally through the Defense Data Network (DDN). In its response to this requirement, Potomac merely states that DDN interfaces will be developed and installed as required by the specifications. The firm provides no details, and in fact states in its proposal that one mandatory DDN requirement is "not applicable" to award group No. 4.

The RFP also sets forth requirements for the size, timing, and approval of training courses, the qualifications of instructors, and the distribution of documentation. In its responses to those requirements, as well as for some concerning maintenance, Potomac only wrote "Noted" under the corresponding technical specification.

In our opinion, these responses do not satisfy the solicitation requirement, quoted above, to provide a detailed technical description as to how the requirement will be met. Leaving aside any question as to whether "Noted" constitutes an unambiguous promise of performance, we find that this response provides the agency with little more of the information needed for evaluation than did the verbatim restatements of solicitation requirements that we have previously found to be insufficient. See Essex Electro Engineers; ALC-Filco Corporation, B-211053.2; B-211053.3, supra, 84-1 CPD ¶ 74 at 4; Roach Manufacturing Corp., B-208574, May 23, 1983, 83-1 CPD ¶ 547; see also Frequency Engineering Laboratories, B-212516, Feb. 7, 1984, 84-1 CPD ¶ 151 (failure of proposal to include required paragraph-by-paragraph response to specifications and required explanation of anticipated engineering effort necessary to meet specifications provides a basis for finding that agency had reasonable grounds for excluding proposal from competitive range).

As the Army points out, other informational deficiencies likewise rendered adequate evaluation of Potomac's proposal difficult or impossible. Potomac's proposal does not include the required references to technical documentation substantiating each response. Potomac's incomplete configuration diagrams lack model numbers, and its system configuration tables fail to specify, among other things, the equipment to which each device will be connected. Even some of Potomac's more extended responses are inadequate, failing to explain how what was proposed fully satisfies the requirements of the paragraph in the RFP to which the response is directed.

As for Potomac's claim to superior expertise, we have held that a technical evaluation must be based upon the information submitted with the proposal. Thus, no matter how capable an offeror may be, it will not be considered to be in the competitive range if it submits

an inadequate written proposal. See Frequency Engineering Laboratories, B-212516, supra, 84-1 CPD ¶ 151 at 5.

Accordingly, Potomac's protest is denied.

Axxa Protest

Under award group No. 9, offerors were required to offer terminals, keyboards, floppy disks, modems, printers, work stations, and other ADP equipment, as well as associated installation, documentation, training, maintenance, and certain interface and communications capabilities. The RFP listed a number of software programs that "must be supported" and required the terminals to "access and interface" with the programs. The RFP also required any proposals to include a Local Area Network for MILPERCEN, that is, a communications system linking information processing equipment at MILPERCEN so that "users will have individual computer systems which can communicate directly with other users and the main computer system."

Although Axxa attempted to submit a proposal under award group No. 9, it was hand-carried and arrived after the time set for receipt. The Army found the proposal to have been submitted late and accordingly refused to accept it. Axxa subsequently filed this protest with our Office.

Axxa did not protest to our Office concerning the rejection of its proposal as untimely. Instead, it initially alleged that Sperry Univac is the only other offeror for award group No. 9 and that (1) the terminals offered by Sperry are incapable of supporting the listed software because they lack sufficient memory to load the programs completely; and (2) Sperry did not offer a local area network, but only proposed a direct hookup of each terminal to the mainframe computer.

In response to the Army's contention in the administrative report that the RFP did not require the terminals to be capable of fully loading the programs, but instead only required them to provide access to and interface with the programs in the mainframe computer, Axxa withdrew the first of the above protests; however, at the same time, it presented a new basis of protest, contending that:

"[T]he specification requirement for the terminals to be capable of 'supporting'

three pages of Sperry specific software application programs was unduly restrictive of competition. A procurement of this size, so well advertised, should have drawn numerous responses. It is without doubt that the many qualified vendors in the hardware industry determined themselves unable to respond because of their inability to assure full compatibility with so numerous a list of vendor specific application programs."

In considering those bases of protest that Axxa did not withdraw, we note first that this is a pre-award protest. Defense Acquisition Regulation § 3-507.2(a), reprinted in 32 C.F.R. pts. 1-39 (1983), provides that before award no information contained in any proposal or information regarding the number or identity of the offerors shall be made public. In addition, the Army has requested us not to release to Axxa those portions of the administrative report concerning the evaluation of other proposals received under award group No. 9. Accordingly, while we have reviewed the relevant documentation in camera, our explanation here will necessarily be only a limited, general one. Cf. Enviro Control, Inc., B-205722, April 12, 1982, 82-1 CPD ¶ 333 (before award an offeror whose proposal is excluded from the competitive range is entitled to only a general explanation of the basis for the competitive range determination).

Based on our examination of the relevant portions of all proposals included in the competitive range for award group No. 9, we conclude that, as maintained by the Army, none failed to offer a local area network. This portion of Axxa's protest therefore is denied.

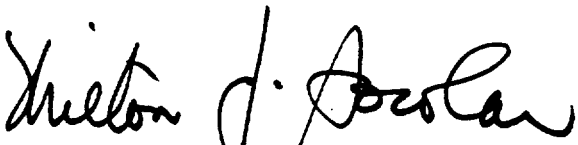
As for Axxa's allegation that the requirement for the terminals to support Sperry software was unduly restrictive, we note that in amendment No. 1 the Army, responding to a similar allegation, stated that:

"The software in question is vendor-specific and is host (Sperry 1100/84) resident. It is not required to be resident on each terminal. The requirement is for the terminals to access and interface with the list of software items. . . . This requirement

cannot be withdrawn. A functional description of how each software package will be used is not available and cannot be provided with the time constraints associated with this procurement. Non-Sperry vendors may exercise whatever latitude they deem appropriate in order to effect plug-to-plug and software compatibility."

Amendment No. 1 established a September 23, 1983 closing date for receipt of proposals. Axxa's protest in this regard was not filed with our Office until February 28, 1984, more than 5 months later. Our Bid Protest Procedures, 4 C.F.R. § 21.2(b)(1) (1984), require that protests alleging improprieties in a solicitation that are apparent before closing date to be filed by that date. Since the requirement was clear on the face of the solicitation, Axxa's protest in this regard is untimely, and we will not consider its merits. See All Star Dairies Inc., B-209188, Jan. 31, 1983, 83-1 CPD ¶ 107.

The protests are denied in part and dismissed in part.

for 
Comptroller General
of the United States